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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,739	03/22/2004	David Elder	RP-002	2738
34253	7590	01/21/2005	EXAMINER	
TANGENT LAW GROUP 1201 PENNSYLVANIA AVE WASHINGTON, DC 20004				TIBBITS, PIA FLORENCE
		ART UNIT		PAPER NUMBER
		2838		

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/708,739	ELDER ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Pia F Tibbits	2838

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 21 July 2005.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-62 is/are pending in the application.
  - 4a) Of the above claim(s) 30-62 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-29 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

**DETAILED ACTION**

This Office action is in answer to the election filed 7/21/2004, replaces the Office action mailed 8/6/2004, and reflects the fact that the election for application 10/604703, of which this application is a continuation, was faxed to the examiner 1/10/2005, since the original document faxed to the central fax number on 8/24/2004 was lost. Claims 1-62 are pending, and claims 1-29 are elected.

1. Examiner notes, and agrees with applicant's comments that the instant application is an utility application and the restriction is governed by the rules set forth in MPEP §803, and the restricted groups are patentably distinct inventions under the provisions of MPEP §806.05 and related under MPEP §806.05(c) as combination/subcombination. Applicant's election of Group I, claims 1-29 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse. **MPEP 818.03** (a) states that "As shown by the first sentence of 37 CFR 1.143, the traverse to a requirement must be complete as required by 37 CFR 1.111(b) which reads in part: "In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The applicant's or patent owner's reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action."

***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-29 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 37-62 of copending Application No. 10/604703. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both describe a multiple battery system comprising a main battery having a main positive output and a main negative output; at least one auxiliary battery having an auxiliary positive output and an auxiliary negative output; a main electrical circuit comprising a coupling of the positive terminal with a switching device, the switching device having at least two operating positions to selectively couple the main battery and the auxiliary battery to the common positive terminal, wherein in a first operating position provides charge to both the main and the auxiliary battery; and a controller switching the switching device based on input from a sensor.

With regard to application 10/604703 reciting a battery housing having a common positive terminal and a common negative terminal each coupled to an electrical system: eliminating the housing, applicant neither extends the life of the batteries being charged, nor makes it easier to maintain the charge of the multiple battery, which is the object of his invention, as cited in the disclosure. Therefore it would be obvious to one skilled in the art at the time the invention was made that the elimination of an element and its function in a combination is an obvious expedient if the remaining elements perform the same functions as before. See *In Re Karlson*, 136 USPQ 184 (CCPA 1963), *In Re Wilson*, 153 USPQ 740 (CCPA 1967), and *Ex Parte Rainu*, 168 USPQ 375 (PTO Bd. of App. 1969).

### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the klaxon, the horn, the light, the plurality of lights, the LCD panel, the simulated human voice, the human voice, the light emitting diode, the plurality of light emitting diodes, "the one-way charging diode...comprises an at least one SCR" (fig.8c describes an SCR,

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not a diode and an SCR), the signal processor, the lookup tables, the memory device, the security protocol /encryption element, the VI sensor, the switch position sensor, the main battery voltage sensor, the main battery amperage sensor, the auxiliary battery voltage sensor, the auxiliary amperage sensor, etc. must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "**Replacement Sheet**" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the conventional names, as described in the specification, e.g. controller, etc. for the elements shown in the figure drawings with non-conventional symbols. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining

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figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. The drawings are objected to under 37 CFR 1.83(a) because they fail to show element 750, as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

7. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed, since the claims reciting the network-controlled multiple battery system were withdrawn.

8. **The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.** For example:

- a) in paragraph [0114] "the...battery is...couple" needs to be corrected.
- b) in paragraph [0133] "The embodiment utilizes a configuration similar to that of Figure 813, save for the use of the SCR 4000" is not correct since **there is no figure 813**.
- c) in paragraph [0128] "in the exemplary embodiment of Figure 8" needs to be corrected since **there is no Figure 8**.

9. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter: "coupled...to a point....beyond"; "the one-way charging diode...comprises an at least one SCR" (the specification describes an SCR shown in fig. 8c, there is no mention of a diode comprising an SCR), "short periods", etc. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction is required.

#### ***Claim Objections***

10. Claims 14 and 15 are objected to since claims 14 and 15 are essentially a duplicate of each other. Applicant is advised that should claim 14 be found allowable, claim 15 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

11. Claims 2, 3, 20, 27 are objected to because of the following informalities:

Claim 2: "a one-way charging circuit that precedes" what?

Claim 3: "is coupled through the at least one switching device to a point....beyond" needs to be defined.

Claim 20: "element." should be corrected to read "element".

Claim 27: " for short periods" needs to be defined.

Appropriate correction is required.

#### ***Art Rejection Rationale***

12. At the outset, the examiner notes that claims are to be given their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d

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1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also *In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process."). In responding to this Office action, applicants are reminded of the requirements of 37 CFR 1.111 and 1.119 that applicants specifically point out the specific distinctions believed to render the claims patentable over the references in presenting responsive arguments. See MPEP 714.02. The support of any amendments made should also be specifically pointed out. See MPEP 2163.06.

***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

14. Claims 1-8, 10, 11, 17, 20, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by **McDermott et al.** [hereinafter McDermott][6545445].

McDermott discloses in figures 1-8 a multiple battery system 100 comprising: a main battery 102 having a main positive output and a main negative output [see fig.4]; at least one auxiliary battery 104 having an at least one auxiliary positive output and an at least one auxiliary negative output [see fig.4]; and a main electrical circuit 106 comprising a coupling of a common positive terminal 306 with an at least

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one switching device 122, the at least one switching device having at least two operating positions to selectively couple the main and at least one auxiliary battery to the common positive terminal, wherein a first operating position of the at least two operating positions provides electrical charge to both the main battery 102 and the at least one auxiliary battery 104; and a controller/ECU 108 coupled to the main electrical circuit and switching said at least one switching device based on input from an at least one sensor 116 and 118. The patent clearly discloses that when vehicle engine is running, the alternator charges both the main battery 102 and the auxiliary battery 104. When the vehicle engine is turned off, the circuit switch between the main battery 102 and the auxiliary battery 104 removes/electrically isolates the main battery 102 from the circuit so that neither the DC loads, nor the auxiliary battery 104 can drain power from the main battery 102. [see also column 3, lines 15-22 and lines 36-43].

As to claim 2, see reference and remarks for claim 1.

As to claim 3, to continue prosecution, the statement "the common positive terminal is **coupled** through the at least one switching device **to a point** in the main electrical circuit, **beyond** the one-way charging circuit, that couples to the auxiliary positive output" was interpreted to mean that the common positive terminal is separate from the switching device [see also fig.1].

As to claims 4-6, see reference and remarks for claims 1-3.

As to claim 7, McDermott discloses a display 124 to show the amount of power remaining in the battery [see also fig.1; column 3, line 24].

As to claim 8, McDermott discloses that controller/ECU 108 comprises indicator element/display 124 including of one or more LED lights, an audible beep or tone [see also fig.1; column 3, lines 23-35].

As to claim 10, McDermott clearly discloses a battery housing 300 [see fig.3] with a main battery compartment/upper housing 402 containing the main battery 102, and an at least one auxiliary battery compartment/lower housing 404 containing the at least one auxiliary battery 104 [see fig.4; column 6, lines 47-48].

As to claim 11, McDermott clearly discloses the main battery compartment 402 is located atop the at least one auxiliary battery compartment 404 [see fig.4].

As to claim 17, see reference and remarks for claims 1-3.

As to claim 20, see reference and remarks for claims 1-3. Additionally, McDermott discloses a microprocessor for ECU 108 [see also column 4, line 42].

As to claim 27, McDermott discloses the controller/ECU 108 includes a trigger/monitored parameters that signals the controller to periodically change the switch position of the at least one switching device so as to discharge the at least one auxiliary battery 104 in the second operating position of the at least two operating positions and then switch back to the first operating position of the at least two operating positions [see also column 4, lines 45, 52-58; column 5, lines 20-21].

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 12, 18, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over **McDermott**, as described above.

McDermott discloses a multiple battery system comprising a main battery having a main positive output and a main negative output; at least one auxiliary battery having an at least one auxiliary positive output and an at least one auxiliary negative output; and a main electrical circuit comprising a coupling of a common positive terminal with an at least one switching device, the at least one switching device having at least two operating positions to selectively couple the main and at least one auxiliary battery to the common positive terminal, wherein a first operating position of the at least two operating positions provides electrical charge to both the main battery and the at least one auxiliary battery; a controller coupled to the main electrical circuit and switching said at least one switching device based on input from an at least one sensor; a first operating position of the at least two operating positions that couples the

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common positive terminal to the main positive output of the main battery and the common positive terminal to a one-way charging circuit that precedes and is coupled to the at least one auxiliary positive output on the at least one auxiliary battery; and the common positive terminal is separate from the switching device. McDermott does not disclose the main battery compartment is located aside the at least one auxiliary battery compartment.

As to claim 12, the main battery compartment being located aside the at least one auxiliary battery compartment, absent any criticality, is only considered to be an obvious modification as it has been held by the courts that there would be **no** invention in shifting the location of a structure of a device to another location if the operation of the device would not thereby be modified. *In re Japikse*, 86 USPQ 70.

As to claim 18, see reference and remarks for claims 1-3 above. Additionally, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a plurality of auxiliary batteries, in order to meet the user's needs, since it has been held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960) and MPEP 2144.04.

As to claim 29, the multiple batteries being one of a six-volt, a twelve-volt, a fourteen-volt, and a twenty-four volt battery electrical system: it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a selection for the voltage of the multiple batteries in order to optimally accommodate the user's system, since it has been held that discovering an "optimum" or "preferred" value for a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

17. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over **McDermott**, as described above, in view of **Tremblay** [4924176].

McDermott discloses a multiple battery system comprising a main battery having a main positive output and a main negative output; at least one auxiliary battery having an at least one auxiliary positive

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output and an at least one auxiliary negative output; and a main electrical circuit comprising a coupling of a common positive terminal with an at least one switching device, the at least one switching device having at least two operating positions to selectively couple the main and at least one auxiliary battery to the common positive terminal, wherein a first operating position of the at least two operating positions provides electrical charge to both the main battery and the at least one auxiliary battery; a controller coupled to the main electrical circuit and switching said at least one switching device based on input from an at least one sensor; a first operating position of the at least two operating positions that couples the common positive terminal to the main positive output of the main battery and the common positive terminal to a one-way charging circuit that precedes and is coupled to the at least one auxiliary positive output on the at least one auxiliary battery; and the common positive terminal is separate from the switching device. McDermott does not disclose the indicator element being a plurality of indicator elements having at least one of a red, orange, green, or amber color.

Tremblay discloses a plurality of indicator elements having at least one of a red, and green color since red and green colors are generally preferred because these colors are easily associated with danger and action [see abstract; column 3, lines 52-55]. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify McDermott's apparatus and include a plurality of indicator elements having at least one of a red, and green color, as disclosed by Tremblay, in order to indicate danger and action in association with the functions of the batteries.

18. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over **McDermott**, as described above, in view of **Bromley et al.** [hereinafter Bromley][5487956].

McDermott discloses a multiple battery system comprising a main battery having a main positive output and a main negative output; at least one auxiliary battery having an at least one auxiliary positive output and an at least one auxiliary negative output; and a main electrical circuit comprising a coupling of a common positive terminal with an at least one switching device, the at least one switching device having at least two operating positions to selectively couple the main and at least one auxiliary battery to

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the common positive terminal, wherein a first operating position of the at least two operating positions provides electrical charge to both the main battery and the at least one auxiliary battery; a controller coupled to the main electrical circuit and switching said at least one switching device based on input from an at least one sensor; a first operating position of the at least two operating positions that couples the common positive terminal to the main positive output of the main battery and the common positive terminal to a one-way charging circuit that precedes and is coupled to the at least one auxiliary positive output on the at least one auxiliary battery; and the common positive terminal is separate from the switching device. McDermott does not disclose a one-way charging diode.

Bromley discloses a multiple battery system where the auxiliary/backup battery 105 charging current is provided through a steering and polarity protection diode 119 [see also column 3, lines 15-20]. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify McDermott's apparatus and include a diode in the charging path of the auxiliary battery, as disclosed by Bromley, in order to provide steering and polarity protection.

19. Claims 14-16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **McDermott and Bromley**, as described above, in view of **Dougherty et al.** [hereinafter Dougherty][5162164].

The instant application does not show how the at least one one-way charging diode further comprises an at least one silicon rectifier: to continue prosecution it was assumed that the unidirectional current path through the one-way charging diode needs an overcurrent protection device, such as an SCR/thyristor, to selectively limit current through the diode.

McDermott and Bromley disclose a multiple battery system comprising a main battery having a main positive output and a main negative output; at least one auxiliary battery having an at least one auxiliary positive output and an at least one auxiliary negative output; and a main electrical circuit comprising a coupling of a common positive terminal with an at least one switching device, the at least one switching device having at least two operating positions to selectively couple the main and at least one auxiliary battery to the common positive terminal, wherein a first operating position of the at least

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two operating positions provides electrical charge to both the main battery and the at least one auxiliary battery; a controller coupled to the main electrical circuit and switching said at least one switching device based on input from an at least one sensor; a first operating position of the at least two operating positions that couples the common positive terminal to the main positive output of the main battery and the common positive terminal to a one-way charging circuit that precedes and is coupled to the at least one auxiliary positive output on the at least one auxiliary battery; the common positive terminal is separate from the switching device; and a one-way charging diode. McDermott and Bromley do not disclose the one-way diode.

Dougherty discloses in a dual battery system that a unidirectional current path 108 suitably comprises a diode 110 and an overcurrent protection device 112, suitably a variable resistor, polyswitch, solid-state transistor, **SCR/thyristor**, or any device, which selectively limits current through the diode [see also column 13, lines 1-10]. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify McDermott's and Bromley's apparatus and include an overcurrent protection device such as an SCR, as disclosed by Dougherty, in order to selectively limit current through the one-way charging diode.

As to claim 16, an SCR, an alternative name for the reverse blocking triode thyristor, it is an inherent function of the SCR to disable the coupling with the at least one auxiliary battery in order to selectively limit current through the one-way charging diode, and MPEP 2100 states that the disclosure of a limitation may be expressed, implicit or **inherent**.

As to claim 19, McDermott discloses that ECU 108 receives on main battery amperage sensor/current input 116, and main battery voltage sensor/voltage input 118 [see column 4, lines 44-49].

20. Claims 21-26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over **McDermott**, as described above, in view of **Hollenberg** [5694335].

McDermott discloses a multiple battery system comprising a main battery having a main positive output and a main negative output; at least one auxiliary battery having an at least one auxiliary positive output and an at least one auxiliary negative output; and a main electrical circuit comprising a coupling of

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a common positive terminal with an at least one switching device, the at least one switching device having at least two operating positions to selectively couple the main and at least one auxiliary battery to the common positive terminal, wherein a first operating position of the at least two operating positions provides electrical charge to both the main battery and the at least one auxiliary battery; a controller coupled to the main electrical circuit and switching said at least one switching device based on input from an at least one sensor; a first operating position of the at least two operating positions that couples the common positive terminal to the main positive output of the main battery and the common positive terminal to a one-way charging circuit that precedes and is coupled to the at least one auxiliary positive output on the at least one auxiliary battery; and the common positive terminal is separate from the switching device. McDermott does not disclose a wireless controller system.

Hollenberg discloses in figures 1-21 a wireless controller system including a transceiver 23A, an indicator element 20D, an input device 13C, a network interface 23D, an indicator element 8' connected to a LAN network in order to be able to remotely disconnect the power supply from certain controlled vehicle system circuits [see also the abstract; column 2, line 55]. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify McDermott's apparatus and include a wireless network-controlled controller system, as disclosed by Hollenberg, in order to be able to remotely disconnect the power supply from certain controlled vehicle system circuits.

As to claim 25, the network interfaceable controller being in communication with a Network Operations Center (NOC) via a network, absent any criticality, is only considered to be an obvious modification of the LAN disclosed by Hollenberg in column 2, line 55, as the courts have held that a change in shape or configuration, without any criticality, is within the level of skill in the art as the particular configuration claimed by applicant is nothing more than one of numerous configurations that a person having ordinary skill in the art will find obvious to provide using routine experimentation based on its suitability for the intended use of the invention. See *In re Dailey*, 149USPQ 47 (CCPA 1976).

As to claim 26, the network interfaceable controller couples to and communicates with the at least one switching device to detect the position of the at least one switching device and selectively

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engages the at least one switching device based on the input of at least one of an at least one main battery voltage sensor, an at least one main battery amperage sensor, an at least one auxiliary battery voltage sensor, and an at least one auxiliary amperage sensor, it is an inherent function of McDermott's and Hollenberg's controller/microprocessor to couple and to communicate with the at least one switching device via the wireless controller to detect the position of the at least one switching device and to selectively engage the at least one switching device based on the input of at least one of an at least one main battery voltage sensor, an at least one main battery amperage sensor, and MPEP 2100 states that the disclosure of a limitation may be expressed, implicit or **inherent** [see column 4, lines 44-49].

As to claim 28, McDermott discloses at least on VI sensor/current input 116 from shunt 114, and voltage input 118 [see fig.1].

21. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over **McDermott** and **Hollenberg**, as described above in view of **Tremblay**, as described above.

McDermott and Hollenberg disclose a multiple battery system comprising a main battery having a main positive output and a main negative output; at least one auxiliary battery having an at least one auxiliary positive output and an at least one auxiliary negative output; and a main electrical circuit comprising a coupling of a common positive terminal with an at least one switching device, the at least one switching device having at least two operating positions to selectively couple the main and at least one auxiliary battery to the common positive terminal, wherein a first operating position of the at least two operating positions provides electrical charge to both the main battery and the at least one auxiliary battery; a controller coupled to the main electrical circuit and switching said at least one switching device based on input from an at least one sensor; a first operating position of the at least two operating positions that couples the common positive terminal to the main positive output of the main battery and the common positive terminal to a one-way charging circuit that precedes and is coupled to the at least one auxiliary positive output on the at least one auxiliary battery; the common positive terminal is separate from the switching device; the controller is a wireless controller system that comprises a

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wireless controller, a wireless transceiver, and an input device. McDermott and Hollenberg do not disclose an at least one indicator element.

Tremblay discloses a plurality of indicator elements having at least one of a red, and green color since red and green colors are generally preferred because these colors are easily associated with danger and action. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify McDermott's and Hollenberg's apparatus and include a plurality of indicator elements having at least one of a red, and green color, as disclosed by Tremblay, in order to indicate danger and action in association with the functions of the batteries.

### ***Conclusion***

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in PTO-892 and not mentioned above disclose related apparatus.
23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Pia Tibbits whose telephone number is (571) 272-2086. If unavailable, contact the Supervisory Patent Examiner Mike Sherry whose telephone number is (571) 272-2084. The Technology Center Fax number is (703) 872-9306.
24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PFT

January 15, 2005

Pia Tibbits

Primary Patent Examiner